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and who certifies that it is a true and exact copy of either an original document or of a copy issued by the service department or a public custodian of records; and

(2) The document contains needed information as to length, time and character of service; and

(3) In the opinion of the Department of Veterans Affairs the document is genuine and the information contained in it is accurate.

(b) *Additional requirements for pension claimants.* In addition to meeting the requirements of paragraph (a) of this section, a document submitted to establish a creditable period of wartime service for pension entitlement may be accepted without verification if the document (or other evidence of record) shows:

(1) Service of 4 months or more; or

(2) Discharge for disability incurred in line of duty; or

(3) Ninety days creditable service based on records from the service department such as hospitalization for 90 days for a line of duty disability.

(c) *Verification from the service department.* When the claimant does not submit evidence of service or the evidence submitted does not meet the requirements of paragraph (a) of this section (and paragraph (b) of this section in pension claims), the Department of Veterans Affairs shall request verification of service from the service department. However, payment of non-service-connected burial benefits may be authorized, if otherwise in order, based upon evidence of service which VA relied upon to authorize payment of compensation or pension during the veteran's lifetime, provided that there is no evidence which would serve to create doubt as to the correctness of that service evidence. If it appears that a length of service requirement may not be met (e.g., the 90 days wartime service requirement to receive pension under 38 U.S.C. 1521(j)), the Department of Veterans Affairs shall request a complete statement of service to determine if there are any periods of active

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service that are required to be excluded under § 3.15.

[45 FR 72654, Nov. 3, 1980, as amended at 46 FR 51246, Oct. 19, 1981; 58 FR 37857, July 14, 1993; 58 FR 42623, Aug. 10, 1993; 66 FR 19858, Apr. 18, 2001]

§ 3.204 Evidence of dependents and age.

(a)(1) Except as provided in paragraph (a)(2) of this section, VA will accept, for the purpose of determining entitlement to benefits under laws administered by VA, the statement of a claimant as proof of marriage, dissolution of a marriage, birth of a child, or death of a dependent, provided that the statement contains: the date (month and year) and place of the event; the full name and relationship of the other person to the claimant; and, where the claimant's dependent child does not reside with the claimant, the name and address of the person who has custody of the child. In addition, a claimant must provide the social security number of any dependent on whose behalf he or she is seeking benefits (see § 3.216).

(2) VA shall require the types of evidence indicated in §§ 3.205 through 3.211 where: the claimant does not reside within a state; the claimant's statement on its face raises a question of its validity; the claimant's statement conflicts with other evidence of record; or, there is a reasonable indication, in the claimant's statement or otherwise, of fraud or misrepresentation of the relationship in question.

(Authority: 38 U.S.C. 5124)

(b) *Marriage or birth.* The classes of evidence to be furnished for the purpose of establishing marriage, dissolution of marriage, age, relationship, or death, if required under the provisions of paragraph (a)(2), are indicated in §§ 3.205 through 3.211 in the order of preference. Failure to furnish the higher class, however, does not preclude the acceptance of a lower class if the evidence furnished is sufficient to prove the point involved.

(c) *Acceptability of photocopies.* Photocopies of documents necessary to establish birth, death, marriage or relationship under the provisions of §§ 3.205

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through 3.215 of this part are acceptable as evidence if the Department of Veterans Affairs is satisfied that the copies are genuine and free from alteration. Otherwise, VA may request a copy of the document certified over the signature and official seal of the person having custody of such record.

(Authority: 38 U.S.C. 501)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0624)

[26 FR 1572, Feb. 24, 1961, as amended at 40 FR 53581, Nov. 19, 1975; 45 FR 72655, Nov. 3, 1980; 59 FR 46338, Sept. 8, 1994; 61 FR 56626, Nov. 4, 1996; 66 FR 56614, Nov. 9, 2001]

§ 3.205 Marriage.

(a) *Proof of marriage.* Marriage is established by one of the following types of evidence:

(1) Copy or abstract of the public record of marriage, or a copy of the church record of marriage, containing sufficient data to identify the parties, the date and place of marriage, and the number of prior marriages if shown on the official record.

(2) Official report from service department as to marriage which occurred while the veteran was in service.

(3) The affidavit of the clergyman or magistrate who officiated.

(4) The original certificate of marriage, if the Department of Veterans Affairs is satisfied that it is genuine and free from alteration.

(5) The affidavits or certified statements of two or more eyewitnesses to the ceremony.

(6) In jurisdictions where marriages other than by ceremony are recognized the affidavits or certified statements of one or both of the parties to the marriage, if living, setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, the period of cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed be-

tween the parties to the alleged marriage including the periods of cohabitation, places of residences, whether the parties held themselves out as married, and whether they were generally accepted as such in the communities in which they lived.

(7) Any other secondary evidence which reasonably supports a belief by the Adjudicating activity that a valid marriage actually occurred.

(b) *Valid marriage.* In the absence of conflicting information, proof of marriage which meets the requirements of paragraph (a) of this section together with the claimant's certified statement concerning the date, place and circumstances of dissolution of any prior marriage may be accepted as establishing a valid marriage, provided that such facts, if they were to be corroborated by record evidence, would warrant acceptance of the marriage as valid. Where necessary to a determination because of conflicting information or protest by a party having an interest therein, proof of termination of a prior marriage will be shown by proof of death, or a certified copy or a certified abstract of final decree of divorce or annulment specifically reciting the effects of the decree.

(c) *Marriages deemed valid.* Where a surviving spouse has submitted proof of marriage in accordance with paragraph (a) of this section and also meets the requirements of § 3.52, the claimant's signed statement that he or she had no knowledge of an impediment to the marriage to the veteran will be accepted, in the absence of information to the contrary, as proof of that fact.

(Authority: 38 U.S.C. 501)

CROSS REFERENCES: Marriages deemed valid. See § 3.52. Definitions; marriage. See § 3.1(j). Evidence of dependents and age. See § 3.204.

[26 FR 1572, Feb. 24, 1961, as amended at 27 FR 6281, July 3, 1962; 36 FR 20946, Nov. 2, 1971; 40 FR 53581, Nov. 19, 1975; 45 FR 72655, Nov. 3, 1980; 47 FR 28096, June 29, 1982; 52 FR 19349, May 22, 1987; 58 FR 37857, July 14, 1993; 59 FR 46338, Sept. 8, 1994; 62 FR 5529, Feb. 6, 1997]

§ 3.206 Divorce.

The validity of a divorce decree regular on its face, will be questioned by the Department of Veterans Affairs only when such validity is put in issue